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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,119	01/07/2002	Emily J. Harris	747.006US1	2069
21186 7590 05/28/2008 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
KANG, INSUN				
ART UNIT		PAPER NUMBER		
2193				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/042,119

**Applicant(s)**

HARRIS ET AL.

**Examiner**

INSUN KANG

**Art Unit**

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

1. This action is in response to the amendment filed 2/25/2008.
2. Claims 47-60 are pending in the application.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 47-49 and 53-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Hoff et al. (US Patent 6,272,536) hereinafter referred to as “Hoff.”

Per claim 47:

Hoff discloses:

-creating, by a channel server, a channel to distribute software comprising a list of one or more channel clients and one or more tasks assigned to each one of the channel clients (i.e.

“Channel—A named application consisting of code and data which can be subscribed to by an end-user,” col. 3 lines 1-13, 45-55; col. 4 lines 19-56)

-receiving, by each one of the channel clients from the channel server, installation files for the channel client component (i.e. these software and data updates are automatically downloaded and installed in the background,” abstract);

-receiving, by each one of the channel clients from the channel server, installation files for a service (i.e. col. 12 lines 15-28);

-installing, by each one of the channel clients, the installation files for the channel client component and the installation files for the service(i.e. col. 12 lines 15-28);

-requesting, by the channel client from the channel server, one or more tasks for deployment on the channel client (“During the processing of an install request, transmitter process...generate a “diff file” for a file which is updated as part of the install,” col. 12 lines 15-28) as claimed.

Per claim 48:

The rejection of claim 47 is incorporated, and further, Hoff teaches:

- the channel client performs the actions of receiving through a direct network connection with the channel server (col. 3 lines 44-55) as claimed.

Per claim 49:

The rejection of claim 47 is incorporated, and further, Hoff teaches:

- the channel client performs the actions of receiving through a subscription file (“The use of channels is based on subscription,” abstract).

Per claim 53:

The rejection of claim 47 is incorporated, and further, Hoff teaches:

- automatically contacting the channel server by the channel client to receive software (col. 3 lines 44-55) as claimed.

Per claim 54:

The rejection of claim 47 is incorporated, and further, Hoff teaches:

-a computer readable medium having computer executable instructions for performing the method of claim 47 ( col. 5 lines 23-33) as claimed.

Per claim 55, it is the apparatus version of claim 48, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 48 above.

Per claim 56:

The rejection of claim 55 is incorporated, and further, Hoff teaches:

- the second file allows the channel client component to be installed without a user logged on to the target computer(i.e. these software and data updates are automatically downloaded and installed in the background," abstract).

Per claim 57:

The rejection of claim 55 is incorporated, and further, Hoff teaches:

- second file allows one or more channel client components to be installed on a target computer regardless of the user's permissions (i.e. these software and data updates are automatically downloaded and installed in the background," abstract).

Per claim 58, it is the apparatus version of claim 49, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 49 above.

Per claims 59 and 60, they are the apparatus versions of claims 56 and 57, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 56 and 57 above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over van Hoff et al. (US Patent 6,272,536) hereinafter referred to as "Hoff."

Per claims 50-52:

The method of receiving the subscription file depends on user's preference. Hoff discloses the distribution system using channels over network. Hoff does not explicitly state the specific methods of receiving the subscription file such as via e-mail, web page, and login script; however, it would have been obvious for one having ordinary skill in the art of computer software distribution and configuration to use any preferred means to receive the subscription file as users may have different preferences and purposes. The modification would be obvious because one having ordinary skill in the art would be motivated to provide users various delivery options for different preferences.

***Response to Arguments***

7. Applicant's arguments filed 2/25/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., channel refers to a mechanism for distributing software to one or more targets from a central location. A channel is a hierarchical list of targets and tasks...functions as a mechanism for distributing software to one or more targets from a central location, remark, 6) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Van Hoff discloses automatic distribution of channel applications across a network channel to which the user subscribes (i.e. col. 4 lines 39-56; col. 3 lines 45-55). Once the subscribed channels are established, the channel applications are automatically (push) downloaded from a server through the communication channel (i.e. col. 4 lines 57-65). The channel data are organized in a hierarchical manner in a hierarchical file system (i.e. col. 4 lines 39-56; col. 3 lines 45-55). Therefore, the channel in Van Hoff is a mechanism for software distribution to clients.

The applicant states that: Van Hoff does not disclose receiving installation files for the channel client component (remark, 6).

In response, Van Hoff discloses that the clients subscribe to one or more channels from a server (col. 4 lines 57-60) and once the channel data is loaded, the client process can start channel application (col. 5 lines 5-10) and an update request can be issued from the clients to the server in order to obtain the most recent version of the channel data to be installed (col. 5 lines

25-30; "During the processing of an install request, transmitter process...generate a "diff file" for a file which is updated as part of the install," col. 12 lines 15-28). Therefore, the channel data installation files of the initial and updated versions are distributed from the server for automatic installation (i.e. "these software and data updates are automatically downloaded and installed in the background," abstract).

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to INSUN KANG whose telephone number is (571)272-3724. The examiner can normally be reached on M-R 7:30-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock, Jr. can be reached on 571-272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Insun Kang/  
Examiner, Art Unit 2193

/Lewis A. Bullock, Jr./  
Supervisory Patent Examiner, Art Unit 2193